

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

Azmi Abdelmajid

Plaintiff,

v.

Enersafe, LLC

Defendant.

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Civil Action No. 2:11-cv-00448

Jury Trial Demanded

**DEFENDANT ENERSAFE, LLC'S, ANSWER TO PLAINTIFF'S ORIGINAL
COMPLAINT**

COMES NOW, Enersafe, LLC (hereinafter "Enersafe" or "Defendant"), Defendant, and files this Answer to Plaintiff's Original Complaint. Defendant responds to Plaintiff's Complaint by correspondingly numbered paragraphs. All allegations not specifically admitted are denied.

**I.
Introduction**

1. The allegations contained in paragraph 1 do not appear to require an answer from Enersafe, however, to the extent an answer is deemed necessary by the Court, all of the allegations contained therein are denied. Further, Defendant denies that it violated the FLSA as alleged, denies that Plaintiff is entitled to any relief under the FLSA, and further denies that this action should proceed as a collective action.

**II.
Parties**

2. Enersafe is unable to admit or deny the allegations contained in the first sentence of paragraph 2 for lack of knowledge and information sufficient to justify a belief therein. The second sentence of paragraph 2 does not appear to require an answer from Enersafe, however, to the extent an answer is deemed necessary by the Court, all of the allegations contained in the second sentence Defendant's Original Answer

of paragraph 2 are denied. Enersafe admits the allegations contained in the third and fourth sentence of paragraph 2.

III.
Jurisdiction and Venue

3. Enersafe denies that Defendant's Lindale office is in the Marshall Division of the Eastern District of Texas. Enersafe admits that this Court has subject matter jurisdiction of this case, and personal jurisdiction over the parties now named. Enersafe denies, however, that any amount is due to Plaintiff.

IV.
Facts

4. Enersafe admits that Plaintiff was a safety supervisor for Enersafe in or about April 2011. Defendant denies all other allegations in paragraph 4.

5. Enersafe denies the allegations contained in paragraph 5.

V.
Claims

6. The allegations contained in the first two sentences of paragraph 6 are legal conclusions and do not appear to require an answer from Enersafe, however, to the extent an answer is deemed necessary by the Court, all of the allegations contained therein are denied. Enersafe denies all factual allegations in the remainder of paragraph 6.

VI.
Collective Action

7. Defendant admits that Plaintiff seeks to represent other employees in this action, but denies that he is an appropriate class representative, deny that the class is appropriately defined, and deny that this case should proceed as a collective action. Defendant denies all other allegations in paragraph 7 of the Complaint.

8. Defendant admits that Plaintiff seeks to represent other employees in this action, but denies that he is an appropriate class representative, deny that the class is appropriately defined, and deny that this case should proceed as a collective action. Defendant denies all other allegations in paragraph 8 of the Complaint.

VII.
Jury Demand

9. Paragraph 9 does not appear to require an answer from Enersafe; however, to the extent an answer is deemed necessary by the Court, all of the allegations contained in paragraph 9 are denied.

VIII.
Plaintiff's Prayer

10. Defendant denies the allegations in the prayer of the Complaint, deny that Plaintiff is an appropriate class representative, deny that the class is appropriately defined, deny that this case should proceed as a collective action and further deny that Plaintiff or others are entitled to any relief requested in the prayer of the Complaint.

IX.
Affirmative Defenses

11. And now, further answering, Enersafe asserts the following affirmative defenses to Plaintiff's Complaint:

12. Enersafe asserts that Plaintiff and/or the alleged similarly situated employees are exempt as that term is commonly understood from certain provisions of the Fair Labor Standards Act, including, but not limited to, the executive exemption, administrative exemption, and/or Motor Carrier Act exemption.

13. Enersafe asserts that at all relevant times alleged in the Complaint, it was not the employer of Plaintiff. Defendant cannot be liable in the capacity in which it is sued.

Defendant's Original Answer

14. Any wage and employment decisions regarding Plaintiff were based upon legitimate reasons. Defendant acted in good faith, in reliance on applicable statutes, regulations, opinions and caselaw, and without willfulness.

15. Plaintiff is not entitled to any recovery because all monies owing to Plaintiff have been paid.

16. Enersafe reserves the right to offer additional defenses which cannot now be articulated due to Plaintiff's failure to particularize his claim. Enersafe reserves the right to assert additional defenses upon further particularization of Plaintiff's claims or further discovery concerning the nature of those claims. Defendant reserves the right to plead additional defenses, affirmative defenses, offsets, and/or counterclaims after the conclusion of discovery.

17. This action should not proceed collectively because the members of the alleged putative class are not similarly situated, and Plaintiff has not pleaded facts which would establish a similarly situated class.

18. Enersafe requests a trial by jury, to the extent appropriate.

20. For these reasons, Enersafe, LLC requests that the Court:

- (a) Render judgment that Plaintiff take nothing on his claims;
- (b) Award Enersafe all general and special damages, including expenses and costs;
- (c) Dismiss Plaintiff's Complaint against Enersafe with prejudice; and
- (d) Award any other relief, at law or equity, to which Enersafe may be entitled.

Respectfully submitted,

By: /s/ Michelle Jones

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ATTORNEYS FOR DEFENDANT,
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CERTIFICATE OF SERVICE

I certify that service of this document was accomplished pursuant to the Local Rules of this Court, via electronic submission by the Court Clerk.

_____/s/_____
Michelle Jones